

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AMIN K. KRAFT,)
)
 Plaintiff,)
)
 v.) 1:08CV378
)
 OFFICER B.C. HARVEY, et al.,)
)
 Defendant(s).)

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on June 13 and 23, 2008, was served on the parties in this action. Plaintiff timely filed objections to the Recommendation. (Doc. 6.)

The Court has made a de novo determination of those portions of the Recommendation to which objections have been made and finds that they do not change the substance of the United States Magistrate Judge's rulings, which are affirmed and adopted. Petitioner's complaint is controlled by Heck v. Humphrey, 512 U.S. 477 (1994), and Petitioner's objections on the grounds of inability to obtain collateral relief under a Motion for Appropriate Relief and failure to have timely sought habeas relief do not provide bases to avoid its application.

IT IS THEREFORE ORDERED that Plaintiff's complaint (Doc. 2) be, and the same is hereby, **DISMISSED** as frivolous or malicious or for failing to state a claim upon which relief may be granted

pursuant to 28 U.S.C. § 1915(e)(2)(B). A Judgment dismissing this action will be entered contemporaneously with this Order.

/s/ Thomas D. Schroeder
United States District Judge

August 20, 2008